

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE

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)	
LIBERTY LEGAL FOUNDATION,)	Case No. _____
JOHN DUMMETT,)	
LEONARD VOLODARSKY,)	
CREG MARONEY,)	
)	Removal of Case No. CH-11-1757-3 From
)	Chancery Court for the State of Tennessee
Plaintiffs,)	in Shelby County
v.)	
)	
NATIONAL DEMOCRATIC PARTY OF)	
THE USA, INC.,)	
DEMOCRATIC NATIONAL COMMITTEE,)	
TENNESSEE DEMOCRATIC PARTY,)	
DEBBIE WASSERMAN SCHULTZ, and)	
CHIP FORRESTER,)	
)	
Defendants.)	
_____)	

NOTICE OF REMOVAL

Now comes the Defendant Chip Forrester (hereinafter “Forrester”), and respectfully removes this proceeding from the Chancery Court for the State of Tennessee to the United States District Court for the Western District of Tennessee based on the fact that this Court has subject matter jurisdiction of the above-entitled action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction) and accordingly the action is removable to this Court pursuant to 28 U.S.C. § 1441 based on the following grounds:

1. This case is principally based on the allegation that President Barak Obama is not a natural born citizen of the United States and therefore does not meet the constitutional requirements to hold the Office of the President of the United States.

2. On October 26, 2011, Plaintiffs Liberty Legal Foundation, John Dummett, Leonard Volodarsky, and Creg Maroney (collectively “Plaintiffs”) filed a class action complaint for declaratory and injunctive relief in Shelby County Chancery Court, and was subsequently assigned a case number of CH-11-1757-3 and initially named as parties the National Democratic Party of the USA, Inc. (hereinafter “NDC USA”), Debbie Wasserman Schultz (Chairperson of the Democratic National Committee), and Chip Forrester (Chairperson of the Tennessee Democratic Party).¹ Despite naming Ms. Schultz and Forrester, Plaintiffs never served these individuals. Instead, Plaintiffs only served NDC USA, an entity that is not affiliated with either the Democratic National Committee or the Tennessee Democratic Party, and appears to be a sham organization possibly organized by the Shelby County Republican Party for reasons unknown².

3. Subsequently, on January 20, 2012, Plaintiffs filed an Amended Complaint and for the first time named the Democratic National Committee and the Tennessee Democratic Party. A copy of this First Amended Complaint is attached hereto as Exhibit B.

4. Plaintiffs subsequently served a summons on Forrester on January 24, 2012 along with a Motion for Preliminary Injunction (the “Injunction Motion”)³ and a Motion for Entry of Default Judgment (the “Default Motion”),⁴ which were also filed along with the Amended Complaint. Accordingly, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b)(1).

5. The Amended Complaint and the Injunction Motion are aimed at one thing: to prevent President Obama’s name from appearing on the ballot in the State of Tennessee. To achieve this unprecedented relief, the Amended Complaint alleges that the Defendants know or

¹ This initial Complaint along with relevant Summons are attached hereto as Exhibit A.

² According to the Secretary of State, one of the assumed names of the NDC USA is the “Shelby County Republican Party, Inc.” See

<http://tnbear.tn.gov/ECommerce/FilingDetail.aspx?CN=091244127202157024172089179042105022040227133146>

³ A copy of the Injunction Motion and the related memorandum in support thereof is attached as Exhibit C.

⁴ A copy of the Default Motion and the related memorandum in support thereof is attached as Exhibit D.

reasonably should know that President Obama is not a natural born citizen and therefore have a duty not to file the relevant documents with the Tennessee Secretary of State Division of Elections the documents identifying President Obama as the Tennessee Democratic Party's candidate for President of the United States. (Amended Complaint ¶1.)

6. The critical question that must be decided in this case is whether President Obama can constitutionally hold the Office of the President of the United States. In other words, the critical question is whether President Obama is a natural born citizen. This is a question of constitutional interpretation and therefore the Amended Complaint is a “case aris[ing] under federal law” because the resolution of the Amended Complaint “depends on the resolution of a substantial question of federal law.” *Michigan S. R.R. Co., v. Branch & St. Joseph Counties Rail Users Assoc. Inc.*, 287 F.3d 568, 573 (6th Cir. 2002); *see also Christianson v. Colt Ind. Operating Corp.*, 486 U.S. 800, 808 (1988) (holding that federal-question jurisdiction exists only in cases in which the complaint “establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law”); *Bracey v. Bd. Of Educ. Of City of Bridgeport*, 368 F.3d 108, 113 (2d Cir. 2004) (“If the plaintiff's statement of his or her state-law claim in a well-pleaded complaint necessarily depends on resolution of a substantial question of federal law, then the case may also arise under federal law within the meaning of 28 U.S.C.S. § 1331.”).

7. Upon information and belief, Defendants the Democratic National Committee (the “DNC”), the Tennessee Democratic Party, and Debbie Wasserman Schultz, who is obviously being sued in her capacity as Chairperson of the DNC. The NDC USA is not a proper party to this action as they are not affiliated with the Tennessee Democratic Party and will have no role in providing appropriate documents identifying the Tennessee Democratic Party's candidate for the office of President of the United States. The NDC USA is apparently only a

named defendant in this action in order to obtain venue in Shelby County and possibly defeat removal. It is unclear who represents this organization as they have refused to answer the Complaint. Upon information and belief this organization is affiliated with the Republican Party of Shelby County and therefore should be dismissed and this Court should, upon perfecting removal, dismiss the NDC USA as a party and transfer this case to the proper venue: the United States District Court, Western District of Tennessee. Defendant Forrester shortly will file with this Court appropriate motions to dismiss the NDC USA from this action and a motion to change venue.

8. A copy of this Notice of Removal will be filed with the Clerk of the Chancery Court in Shelby County.

9. Also, counsel for the Plaintiffs will be served with a copy of this Notice of Removal.

Submitted this 23rd day of February, 2012.

By: /s/ J. Gerard Stranch, IV
J. Gerard Stranch, IV (BPR#023045)
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Counsel for Chip Forrester

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was served via US Mail, postage prepaid, on February 23, 2012, upon:

Van Irion
Liberty Legal Foundation
9040 Executive Park Dr., Ste. 200
Knoxville, TN 37923

/s/ J. Gerard Stranch IV
J. Gerard Stranch IV